



Introduction to EDGAR and Recent Updates

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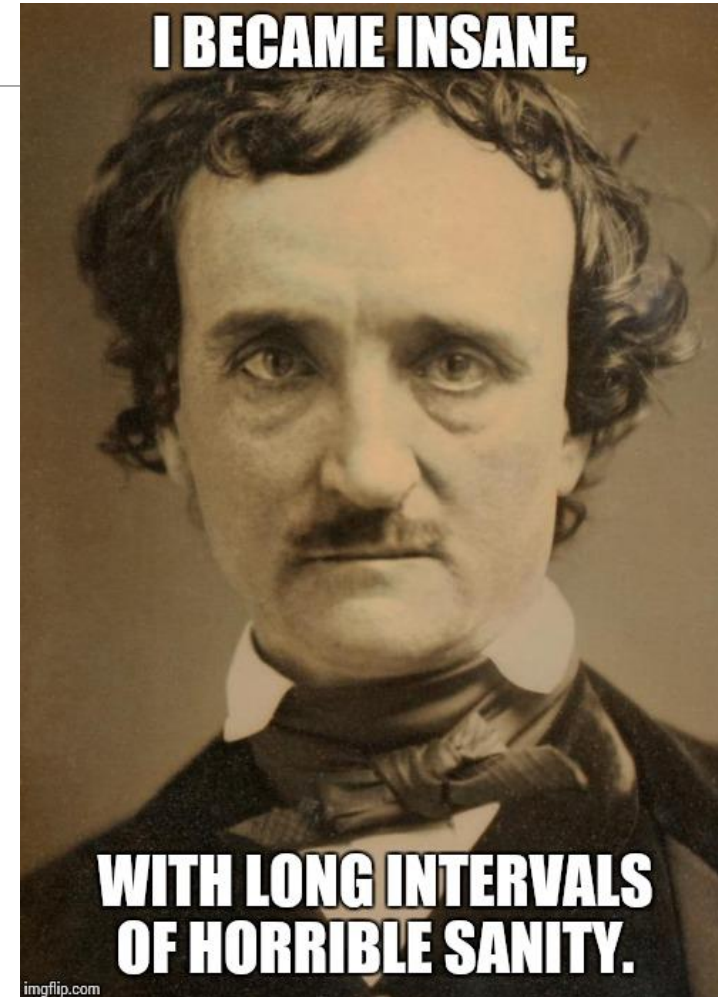
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What Is EDGAR?

Education Department General Administrative Regulations

<https://www2.ed.gov/policy/fund/reg/edgarReg/edgar.html>



Key Sections of EDGAR

Excerpts from the General Education Provisions Act (GEPA)

Title 34

- Part 75 – Direct Grant Programs
- Part 76 – State-Administered Programs
- Part 77 – Definitions
- Part 81 – Enforcement Regulations

Title 2

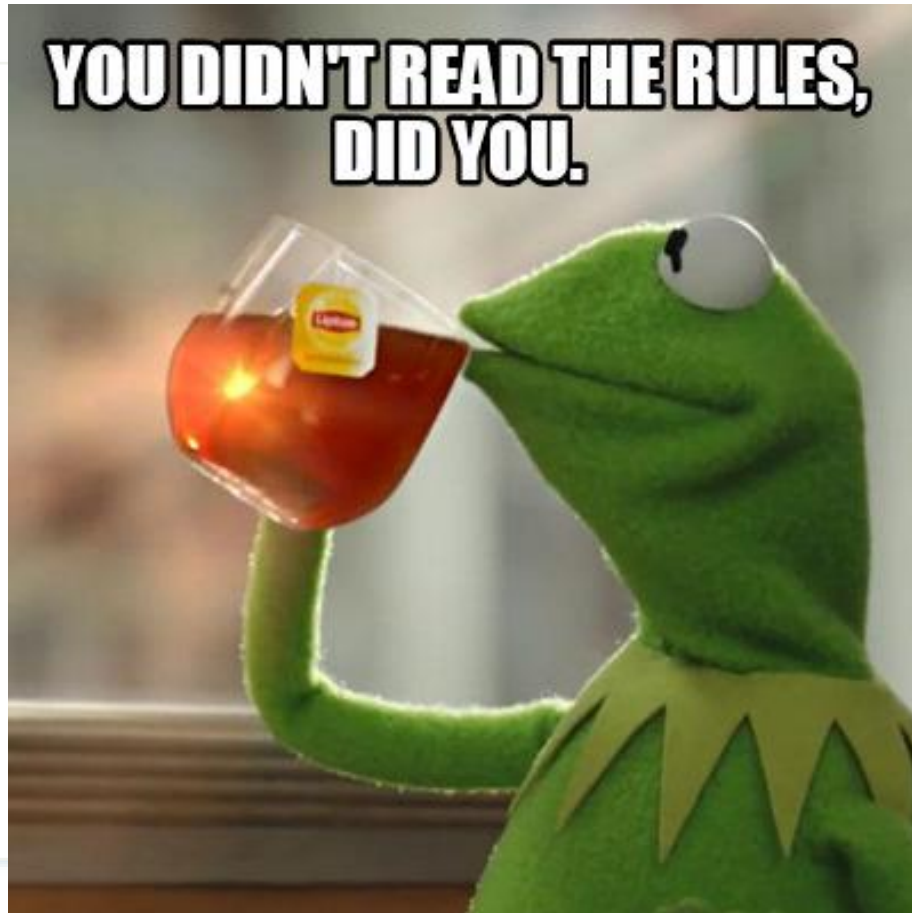
- Part 200 – Cost/Administrative/Audit Rules (UGG)
- Part 3485 – Non-procurement Debarment and Suspension
- Incorporates 2 CFR Part 180, OMB's Guidelines on Debarment and Suspension

OMB Revises the UGG – August 2020

- Proposed changes to 2 CFR Part 200 published January 22, 2020
- Comments closed March 23, 2020
- Final Revisions published August 13, 2020
- Effective as of **November 12, 2020**
 - Except for 200.216 and 200.340, effective August 13, 2020

OMB FAQs published May 2021

https://www.cfo.gov/assets/files/2CFR-FrequentlyAskedQuestions_2021050321.pdf



UNIFORM GRANT GUIDANCE

2 CFR PART 200

2 CFR Part 200 – the UGG

Subpart A – Definitions – **Section Numbers Removed!**

Subpart B – General Provisions

Subpart C – Pre- Federal Award Requirements

Subpart D – Post Federal Award Requirements

Subpart E – Cost Principles

Subpart F – Audit Requirements



THE UGG'LY
TRUTH ABOUT
ALLOWABILITY

Basic Factors of Allowability 200.403

To be allowable, a cost *must*:

- Be **necessary, reasonable** and **allocable**
- Comply with the cost principles and federal award
- Be consistent with policies and procedures applying uniformly to federal and non-federal activities and costs
- Be consistently treated as either direct or indirect costs
- Be determined in accordance with GAAP
- Not be included or used to meet cost sharing / match requirements
- Be adequately **documented**
- **Be incurred during approved budget period (NEW)**

ESSER/GEER Updated Guidance

Published December 2022

Consolidates earlier guidance documents and responses to States

- Appendix B – Related FAQs
 - Section 1 - Vaccination and Testing Use of Funds
 - Section 2 - Incentives for COVID Screening Testing
 - Section 3 – Use of Funds for Student Transportation
 - Section 4 – Promoting Public Safety
 - Section 5 – Use of Funds to Prevent, Prepare for, or Respond to COVID-19

Some new guidance/material on ED views

<https://oese.ed.gov/files/2022/12/ESSER-and-GEER-Use-of-Funds-FAQs-December-7-2022-Update.pdf>

BASIC PRINCIPLES

All allowable uses must meet 3 Requirements!

1. Be an allowable use of ESSER funds

Any of the ESSER funds may be used to support all of the allowable uses of funds listed in any of the ESSER Programs (ESSER FAQ A-1)

2. Prevent, Prepare and Respond to Coronavirus (ESSER FAQ B-6)

For needs arising from or exacerbated by the COVID-19 pandemic, or to emerge stronger post-pandemic (to address pre-existing challenges that, if left unaddressed, will impede recovery from the pandemic)

3. Be allowable under EDGAR (including in approved plan, prior approvals, necessary, reasonable, allowable, etc.).

DO ALL ESSER FUNDS (STILL) HAVE TO BE RELATED TO COVID?

Yes. “To prevent, prepare for, and respond to coronavirus”

- The overall purpose of the CARES Act, CRRSA Act, or ARP Act programs, which is “to prevent, prepare for, and respond to” COVID-19 (ESSER FAQs B-6).

Remains standard in OMB Compliance Supplement

Stated in all prior guidance and recent ARP guidance.

- Updated Guidance: For needs arising from or exacerbated by the COVID-19 pandemic, or to emerge stronger post-pandemic (to address pre-existing challenges that, if left unaddressed, will impede recovery from the pandemic) (12/29/21 ESSER FAQs).

Use of Funds – Video Surveillance Equipment

Yes; however, there may be privacy considerations, civil rights implications, etc. that may not make it a viable option. (Updated FAQ B-14 Dec 2022)

- LEA officials are regularly asked to balance the interests of safety and privacy for students, consistent with applicable law.
- Consideration needs to be given to the places in which individuals would enjoy a reasonable expectation of privacy to avoid violating such expectations.
- An LEA must ensure nondiscrimination in decisions to obtain and use such equipment, including where to place such devices to ensure such surveillance does not treat students unnecessarily differently on the basis of race, color, national origin, sex, disability or age or have an unjustified discriminatory impact on these bases; and must ensure the videos and related information are not used in a discriminatory manner.
- If an LEA chooses to use a video system, it should have a clearly established policy on the use of video systems on school property.

Telecommunication costs and video surveillance costs 200.471

Telecommunication and video surveillance services or equipment are allowable, *except*:

- “Covered” telecommunications and surveillance under 200.216
- Applies to new contracts, services, equipment, and any renewals or extensions

Food

While Part 200 does not prohibit food, ED generally does not allow for the purchase of food:

“Generally, there is a very high burden of proof to show that paying for food and beverages with federal funds is necessary to meet the goals and objectives of a federal grant. When a grantee is hosting a meeting, the grantee should structure the agenda for the meeting so there is time for participants to purchase their own food, beverages, and snacks. In addition, when planning a meeting, grantees may want to consider a location in which participants have easy access to food and beverages. These determinations will be made on a case-by-case basis, and there may be some circumstances where the cost would be permissible. Grantees, therefore, will have to make a compelling case that the unique circumstances they have identified would justify costs as reasonable and necessary.”

Department of Education Guidance on Food, 2014

Direct and Indirect Costs: 2 CFR 200.413; 200.414

- Most costs are directly charged to the grant.
- For costs that can not be directly charged, grantees have an indirect cost rate.
- Salaries of administrative and clerical staff should be treated as “indirect” unless all of following are met:
 - Such services are integral to the activity
 - Individuals can be specifically identified with the activity
 - Such costs are explicitly included in the budget
 - Costs not also recovered as indirect

TIME AND EFFORT



Personnel Documentation 200.430(i)(1)

Time and effort records must accurately reflect the work performed and:

1. Be supported by a system of internal controls which provides reasonable assurance charges are accurate, allowable and properly allocated;
2. Be incorporated into official records;
3. Reasonably reflect total activity for which employee is compensated;
 - Not to exceed 100%
4. Encompass all activities (federal and non-federal);
5. Comply with established accounting policies and practices; and
6. Support distribution among specific activities or cost objectives.

Requires Time By Cost Objective

What is a cost objective? 200.1

- Activities
- Mandated set-asides
- Mandatory minimums
- Anything that requires separate cost accounting
- Examples 200.430(i)(1)(vii):
 - More than one Federal award, a Federal award and a non-Federal award, an indirect and direct cost activity, etc.
 - 10% administrative set-aside, 1% mandatory minimum, etc.



Compliance 2 CFR 200.430(i)(2)

- ❖ For records which meet the standards, the non-federal entity will not be required to provide additional support or documentation for the work performed.
 - DOL regulations for Fair Labor Standards Act must still be met (i.e. charges must be supported by records indicating the total number of hours worked each day).
- ❖ In case of noncompliance – ED may require **personnel activity reports (PARs)**, including prescribed certifications or equivalent documentation that support the records as required in this section (200.430(i)).

FINANCIAL MANAGEMENT

2 CFR 200.302(b)



Financial Management 200.302

(a) States – follow their own rules!

(b) Everyone else – seven standards.

1. Identification in accounts
2. Financial reporting
3. Accounting records (**financial** obligations)
4. Internal controls, internal controls, internal controls
5. Budget control
6. Written procedures for cash management
7. Written procedures for determining allowability

Internal Controls 200.303

MUST:

- Comply with requirements (**U.S. Constitution**)
- Evaluate and monitor compliance
- Take prompt action to correct noncompliance
- Safeguard personally identifiable information (PII)
- Compliance Supplement, Internal Controls: “Control activities are the policies and procedures that help ensure the management’s directives are carried out.”
 - Clearly written and clearly communicated

Financial Management

Cost share/ matching – 2 CFR 200.306

- Unrecovered indirect costs require prior approval
- For donated/in kind contributions, must document assigned value

Program income – 2 CFR 200.307

- Deduction vs Addition method
- Defined 200.1



TIMELY SPENDING

The Requirements

Definitions: 2 CFR
200.1

Obligations: 34 CFR
76.707; 76.708

Modifications to
Period of
Performance:
2 CFR 200.309

Pre-award Costs:
2 CFR 200.458

Carryover
(Tydings): GEPA
Sec. 421(b); 34 CFR
76.709; 76.710

Liquidation: 2 CFR
200.344(b)

ESSER Funding Breakdown

	CARES – ESSER 1 \$13.2 Billion	CRRSA – ESSER 2 \$54.3 Billion	ARP – ESSER 3 \$122 Billion
Enacted	March 2020	December 2020	March 2021
Start date	March 13, 2020	March 13, 2020	March 13, 2020
Statutory end	September 30, 2021	September 30, 2022	September 30, 2023
Tydings period	September 30, 2022	September 30, 2023	September 30, 2024
Liquidation Period	No later than January 30, 2023	No later than January 29, 2024	No later than January 28, 2025

When Obligations Are Made

34 CFR 76.707

Type of Obligation	When Obligation Occurs
Acquisition of Property	Date of binding written commitment
Personal Services by Employee	When services are performed
Personal Services by Contractor	Date of binding written commitment
Travel	When travel is taken
Approved Pre- Agreement Cost	On the first day of the grant or subgrant performance period.

Closeout 2 CFR 200.344 (formerly 200.343)

- Subrecipients must prepare closeout reports and final accounting within 90 days after period; pass-through entities have **120 days**
- Unless federal or pass-through gives extension, all financial obligations must be liquidated no later than **120 days** after period ends
 - Effectively limit subrecipient liquidation to 90 days? YES!

PROCUREMENT

2 CFR 200.317 – 200.327



Procurement Standards 200.318

All non-federal entities must have documented procurement procedures which reflect applicable Federal, State, and local laws and regulations.

- Open and Full Competition (Maximum Extent Possible)
- Specific Thresholds for Purchasing
- Prohibited In-State and Local Preferences
- Contract Administration System
- Conflict of Interest Rules
- Mandatory Disclosures

Conflict of Interest 200.318(c)(1)

- Must maintain written standard of conduct, including conflict of interest policy.
- A conflict of interest arises when any of the following has a financial or other interest in the firm selected for award:
 - Employee, officer or agent
 - Any member of that person's immediate family
 - That person's partner
 - An organization which employs, or is about to employ, any of the above or has a financial interest in the firm selected for award
- Organizational Conflict (applies to non-gov entities)

Conflict of Interest 200.318(c)(1) (cont.)

- Must neither solicit nor accept gratuities, favors, or anything of monetary value from contractors / subcontractors.
- However, may set standards for situations in which the financial interest is not substantial, or the gift is an unsolicited item of nominal value.
- Standards of conduct must include disciplinary actions applies for violations.



Conflict of Interest 200.112 & Mandatory Disclosures 200.113

- All non-federal entities must establish conflict of interest policies and disclose in writing any potential conflict to federal awarding agency in accordance with applicable Federal awarding agency policy.
- Must disclose to federal or pass-through agency “all violation of federal criminal law involving fraud, bribery or gratuity violations potentially affecting the federal award.”

Methods of Procurement

Grantee must have and use documented procurement procedures for the following **methods**:

- a) **Informal procurement methods**
 - Micro-purchase
 - Small purchase procedures
- b) **Formal procurement methods**
 - Competitive sealed bids
 - Competitive proposals
- c) **Noncompetitive proposals**

Formal v. Informal



Noncompetitive Procurement (sole sourcing); 200.320(c)

Appropriate only when:

- **Micro-purchases**
- The item is only available from a single source;
- **There is a public emergency for the requirement that will not permit delay resulting from publicizing a competitive solicitation;**
- The Federal awarding agency or pass-through expressly authorizes noncompetitive procurement in response to a written request from non-Federal entity; or
- After soliciting a number of sources, competition is determined inadequate.



Domestic Preferences for Procurements 200.322



“To the greatest extent practicable” must provide a preference for the purchase of goods and materials produced in the U.S.

What does produced in the United States mean?

- Iron/Steel—initial melting stage through application of coatings
- Manufactured products— items and materials composed in whole or in part of non-ferrous metals (aluminum, plastics, polymer products)

Must include this section in all subawards, contracts and purchase orders

Suspension and Debarment, 200.214; 2 CFR 180.300

For contracts over \$25,000 (“covered transaction” 3485.220) you must verify that the person with whom you intend to do business is not excluded or disqualified.


This MUST be done by either:

- a. Checking SAM; or
- b. Collecting a certification from that person; or
- c. Adding a clause or condition to the covered transaction with that person.

INVENTORY MANAGEMENT



Equipment (200.1): Equipment: tangible, non-expendable, personal property having a useful life of more than one year and an acquisition cost of \$5,000 or more per unit.



Supplies (200.1): All tangible personal property other than equipment



Computing Devices (200.1): If less than \$5,000, defined as supplies

Definitions



Internal Controls – 200.302(b)(4)

Regardless of cost, grantee must maintain effective control and “safeguard all assets and assure that they are used solely for authorized purposes.”



Inventory Procedures – 200.313(d)

- ❖ Property records
 - Description, serial number or other ID, source of funding, title, acquisition date and cost, percent of federal participation, location, use and condition, and ultimate disposition date including sale price
- ❖ Physical inventory at least every two years
- ❖ Control system to prevent loss, damage, theft
 - All incidents must be investigated
- ❖ Adequate maintenance procedures
- ❖ If authorized or required to sell property, proper sales procedures to ensure highest possible return.

Use of Equipment – 200.313(c)

- ❖ Equipment must be used by the Non-Federal entity in the program or project for which it was acquired if needed, **whether or not the project or program continues to be supported by the Federal award.**
- ❖ When used it must be shared, provided such use will not interfere with work on the original projects/programs, and it follows this order of priority:
 - First by other programs from same agency
 - Then open to other federal programs
 - Non-federal programs



Replacement Equipment 200.313(c)(4)

May use sale price of old equipment towards purchase price of replacement equipment

- Calculate new federal share!



Disposition – 200.313(c)(1) & (e)

When no longer needed, may be used in other activities with the following priority:

- Projects supported by Federal awarding agency
- Project funded by other Federal agencies

When property is no longer needed in any current or previously Federally-funded supported activity, must follow disposition rules:

- Fair market value > \$5,000 = pay federal share back to awarding agency
- Fair market value of \$5,000 or less = no money owed back to federal awarding agency

Supplies (200.314): Depends on value of residual inventory of unused supplies



DOCUMENTATION & INTERNAL CONTROLS

Allowability Documentation

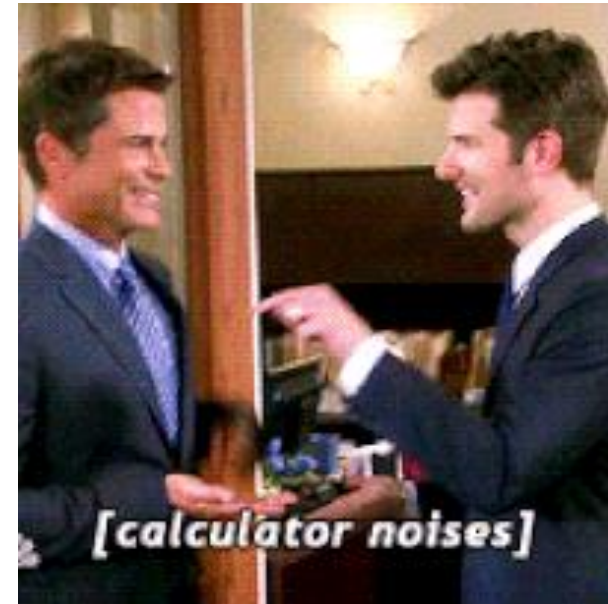
- ❖ Retention Requirements For Records – **2 CFR 200.334** (new citation!)
 - Financial records, supporting documents, statistical records, and all other non-Federal entity records pertinent to a Federal award must be retained for a **period of three years** from the date of submission of the final expenditure report.
 - Watch Statute of Limitations! (Example, USDE = 5 years under the General Education Provisions Act)

Written Procedures: Must or Should?

- Cash Management Procedures - 200.302(b)(6) & 200.305
- Allowability Procedures - 200.302(b)(7)
- Managing Equipment – 200.313(d)
- Conflicts of Interest Policy - 200.318(c)
- Procurement Procedures - 200.320
- Travel Policy - 200.475(b) (new citation)

- Time and Effort Procedures - “essential” ED, Cost Allocation Guide (agency specific)
- Subrecipient Monitoring Procedures – required by Compliance Supplement
- Grant Application Procedures
- Record Retention Procedures
- Audit Resolution Procedures
- Program-specific Procedures

SINGLE AUDIT REQUIREMENTS SUBPART F OF PART 200



2022 Compliance Supplement

- **2022 Compliance Supplement:** <https://www.whitehouse.gov/wp-content/uploads/2022/05/2022-Compliance-Supplement PDF Rev 05.11.22.pdf>
- Released April 2022
- 1,968 Pages
- Guide for auditors



OMB Compliance Supplement Compliance Requirements

- 1. Activities Allowed or Unallowed**
- 2. Allowable Costs/Costs Principles**
3. Cash Management
4. Eligibility
- 5. Equipment & Real Property Management**
- 6. Matching, Level of Effort, Earmarking**
7. Period of Performance
8. Procurement and Suspension & Debarment
9. Program Income
- 10. Reporting**
- 11. Subrecipient Monitoring**
- 12. Special Tests & Provisions**



Questions???



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